



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
FREEDOM OF INFORMATION ACT BRANCH  
Washington, D.C. 20570

Via email

November 26, 2021

Re: FOIA Request NLRB-2022-000201

Dear Aneurin E Canham-Clyne (Industry Dive):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on November 22, 2021, in which you seek “[a]ll available documents, including petitions, and initial letters” in *Starbucks Corporation*, Case Nos. 03-RC-282115, 03-RC-282139, 03-RC-282127, 03-RC-285989, 03-RC-285986, 03-RC-285929, and 28-RC-286556. You assumed fees for the processing of your request in the amount of \$37.00 but requested a fee waiver. You also requested expedited processing.

We acknowledged your request on November 22, 2021. Your request for expedited processing was granted on November 23, 2021. By email with a member of my staff on November 23, 2021, you were informed that all releasable records for Case Nos. 03-RC-282115, 03-RC-282139, 03-RC-282127, 03-RC-285989, 03-RC-285986 were currently available on the Agency’s website and/or through previously processed FOIA requests in FOIAonline. You then modified your request to seek the records in the two cases where information was not made previously available, *Starbucks Corporation*, Case Nos. 03-RC-285929 and 28-RC-286556.

Your request is denied in part and granted in part, as explained below.

After conducting searches of the Agency’s electronic casehandling system, NxGen, I have determined that certain records responsive to your request are part of open investigative files in the Agency’s Region 3 Buffalo and Region 28 Phoenix offices, and therefore, are exempt from disclosure pursuant to Exemption 7(A) of the FOIA. 5 U.S.C. § 552 (b)(7)(A). Exemption 7(A) allows an agency to withhold records included in an open investigatory file where disclosure could reasonably be expected to interfere with enforcement proceedings. See *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 236 (1978). Therefore, given the open status of the requested cases, the investigatory records in the case files are being withheld in full at this time pursuant to Exemption 7(A).

Your request is granted to the extent that I have attached the formal records in the cases, which are available to the public pursuant to NLRB FOIA regulations.

The formal records at this time include the petitions, the initial docketing letters to the parties, the Notices of Hearing, and the completed Notices of Appearance forms for the Employer. Also included is an Order Consolidating Cases and Rescheduling Hearing for Case No. 03-RC-285929, which consolidates 03-RC-285929 with Case Nos. 03-RC-285986 and 03-RC-285989.

Please note that Exemption 7(A) protection is “temporal in nature.” *Citizens for Responsibility & Ethics in Wash. v. Dep’t of Justice*, 746 F.3d 1082, 1097 (D.C. Cir 2014) (citing *NLRB v. Robbins Tire*, 437 U.S. 214, 223-24 230-32 (1978)). As such, case file records may become disclosable, subject to applicable exemptions, after the case closes, that is, once a Board decision and/or court order issues, there has been full compliance with a settlement, or the case has otherwise been closed under Agency procedures. Accordingly, you may wish to file a new request at that time.

The status of these cases can be tracked on the Agency website at [www.nlr.gov](http://www.nlr.gov) by going to the Cases & Decisions tab, clicking case search, entering the case number in the search box and viewing the case page or by clicking the links here: <https://www.nlr.gov/case/03-RC-285929> and <https://www.nlr.gov/case/28-RC-286556>.

For the purpose of assessing fees, we have placed you in Category C, as a representative of the news media, in that you qualify as a person “actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(vii). Accordingly, there is no charge assessed for this request. Given your placement as a news media requester, your request for a fee waiver is moot.

You may contact Jodilyn Breirather, the FOIA Specialist who processed your request, at (202) 368-1927 or by email at [Jodilyn.Breirather@nlrb.gov](mailto:Jodilyn.Breirather@nlrb.gov), as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Specialist, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times.

The contact information for the Agency’s FOIA Public Liaison is:

FOIA Public Liaison  
National Labor Relations Board  
1015 Half Street, S.E., 4<sup>th</sup> Floor  
Washington, D.C. 20570  
Email: [FOIAPublicLiaison@nlrb.gov](mailto:FOIAPublicLiaison@nlrb.gov)  
Telephone: (202) 273-0902  
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: (202) 741-5770  
Toll free: (877) 684-6448  
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at:  
<https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt  
Chief FOIA Officer  
National Labor Relations Board  
1015 Half Street, S.E., 4<sup>th</sup> Floor  
Washington, D.C. 20570  
Email: [DLCFOIAAppeal@nrlrb.gov](mailto:DLCFOIAAppeal@nrlrb.gov)

Any appeal must be postmarked or electronically submitted within 90 calendar days of the date of this letter, such period beginning to run on the calendar day after the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

*/s/ Synta E. Keeling*

Synta E. Keeling  
FOIA Officer

Attachment: (94 pages)